# **EXHIBIT A**

### BERNARD L. MADOFF INVESTMENT SECURITIES LLC

In Liquidation

## **DECEMBER 11, 2008**<sup>1</sup>

### NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM

October 19, 2009

David R. Markin 2003 Trust Capital Security Bank Ltd., Trustee



Dear David R. Markin 2003 Trust:

# PLEASE READ THIS NOTICE CAREFULLY.

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claims on BLMIS Account No. 1C1324 designated as Claim Number 002656 and Claim Number 009174 (the latter of which is duplicative of Claim Number 002656) and are combined ("Combined Claim") for purposes of this determination. This letter shall serve as the Trustee's determination with respect to the Combined Claim:

Your Combined Claim for securities is **DENIED**. No securities were ever purchased for your account.

<sup>&</sup>lt;sup>1</sup> Section 78*lll*(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 78*lll*(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.

Further, based on the Trustee's analysis, the amount of money you withdrew from your account at BLMIS (total of \$10,290,343.40), as more fully set forth in Table 1 annexed hereto and made a part hereof, is greater than the amount that was deposited with BLMIS for the purchase of securities (total of \$10,025,000.00). As noted, no securities were ever purchased by BLMIS for your account. Any and all profits reported to you by BLMIS on account statements were fictitious.

As reflected in Table 1, certain of the transfers into or out of your account have been adjusted. As part of the Trustee's analysis of accounts, the Trustee has assessed accounts based on a money in/money out analysis (i.e., has the investor deposited more or less than he or she withdrew from BLMIS). This analysis allows the Trustee to determine which part of an account's balance is originally invested principal and which part is fictitious gains that were fabricated by BLMIS. A customer's allowed claim is based on the amount of principal in the customer's account.

When ever a customer requested a transfer from one account to another, the Trustee analyzed whether the transferor account had principal in the account at the time of the transfer. The available principal in the account was transferred to and credited in the transferee account. Thus, the reason that the adjusted amount of transferred deposits in Table 1 is less than the purported transfer amount is that the transferor account did not have sufficient principal available to effectuate the full transfer. The difference between the purported transfer amount and the adjusted transfer amount is the amount of fictitious gain that was transferred to or from your account. Under the money in/money out analysis, the Trustee does not give credit for fictitious gains in settling your allowed claim.

Since there were no profits to use either to purchase securities or to pay you any money beyond the amount that was deposited into your BLMIS account, the amount of money you received in excess of the deposits in your account (\$265,343.40) was taken from other customers and given to you. Accordingly, because you have withdrawn more than was deposited into your account, you do not have a positive "net equity" in your account and you are not entitled to an allowed claim in the BLMIS liquidation proceeding. Therefore, your Combined Claim is **DENIED** in its entirety.

Should a final and unappealable court order determine that the Trustee is incorrect in his interpretation of "net equity" and its corresponding application to the determination of customer claims, the Trustee will be bound by that order and will apply it retroactively to all previously determined customer claims in accordance with the Court's order. Nothing in this Notice of Trustee's Determination of Claim shall be construed as a waiver of any rights or claims held by you in having your customer claim re-determined in accordance with any such Court order.

Nothing in this Notice of Trustee's Determination of Claim shall be construed as a waiver of any rights or claims held by the Trustee against you.

PLEASE TAKE NOTICE: If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you <u>MUST</u> file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court and the Trustee within THIRTY DAYS after October 19, 2009, the date on which the Trustee mailed this notice.

**PLEASE TAKE FURTHER NOTICE:** If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

PLEASE TAKE FURTHER NOTICE: You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for the Southern District of New York One Bowling Green New York, New York 10004

and

Irving H. Picard, Trustee c/o Baker & Hostetler LLP 45 Rockefeller Plaza

New York, New York 10011

Irving H. Picard

Trustee for the Liquidation of the Business of Bernard L. Madoff Investment Securities LLC

cc:

Carole Neville Sonnenschein Nath & Rosenthal LLP 1221 Avenue of the Americas, 25<sup>th</sup> Floor New York, NY 10020

	Table	1 2	
200	DEROSI	TS# Comments	
DATE	TRANSACTION DESCRIPTION	AMOUNT	ADJUSTED AMOUNT
8/8/2003	TRANS FROM 1M014830	\$7,237,016.31	\$3,025,000.0
8/21/2003	CHECK WIRE	\$4,000,000.00	\$4,000,000.0
10/14/2003	TRANS FROM 1M014830	\$3,287.40	\$0.0
5/24/2006	CHECK WIRE	\$3,000,000.00	\$3,000,000.0
otal Deposits:		\$14,240,303.71	\$10,025,000.
	- WITHDRA	WALS:	
DATE	TRANSACTION DESCRIPTION	AMOUNT	ADJUSTED AMOUNT
12/15/2003	CHECK WIRE	(\$3,500,000.00)	(\$3,500,000.0
12/24/2003	CHECK WIRE	(\$500,000.00)	(\$500,000.0
1/10/2005	TRANS TO 1M021130	(\$5,556,417.08)	(\$3,025,000.0
11/18/2005	CHECK WIRE	(\$3,265,343.40)	(\$3,265,343.4
Total		(\$12,821,760.48)	(\$10,290,343.4
Withdrawals:			

# **EXHIBIT B**

# UPLICATE



### **CUSTOMER CLAIM**

-	CUSTON	IER CLAIM	Claim Number		
			Ciditi Number		
			Date Received		
BERNARD L. M	ADOFF IN	VESTMENT SECU	RITIES LLC RECTIVED		
		quidation	JUN 0 4 2009		
	DECEM	BER 11, 2008			
Picard, Esq.		Provide your office and home telephone no.			
off Investment Secur essing Center	rities LLC	OFFICE: (212) 768-6889			
y Ave., Suite 800 TX 75201		HOME:			
		Taxpayer I.D. Nun	nber (Social Security No.)		
o entice					
3 TRUST					

Irving H. Picard, Esq. Trustee for Bernard L. Madoff Investment Securities LLC Claims Processing Center 2100 McKinney Ave., Suite 800 Dallas, TX 75201

1C1324 DAVID MARKIN

CORRECT ADDRESS: DAVID R. MARKIN 2003 TRUST CAPITAL SECURITY BANK LTD, TRUSTEE

(If incorrect, please change)

NOTE:

BEFORE COMPLETING THIS CLAIM FORM, BE SURE TO READ CAREFULLY THE ACCOMPANYING INSTRUCTION SHEET. A SEPARATE CLAIM FORM SHOULD BE FILED FOR EACH ACCOUNT AND, TO RECEIVE THE FULL PROTECTION AFFORDED UNDER SIPA, ALL CUSTOMER CLAIMS MUST BE RECEIVED BY THE TRUSTEE ON OR BEFORE March 4, 2009. CLAIMS RECEIVED AFTER THAT DATE, BUT ON OR BEFORE July 2, 2009, WILL BE SUBJECT TO DELAYED PROCESSING AND TO BEING SATISFIED ON TERMS LESS FAVORABLE TO THE CLAIMANT. PLEASE SEND YOUR CLAIM FORM BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED.

1.	Clai	m for money balances as of <b>December 11, 2008</b> .: The Broker owes me a Credit (Cr.) Balance of	\$
	b.	I owe the Broker a Debit (Dr.) Balance of	\$

If you wish to repay the Debit Balance,

C.

	please insert the amount you wish to repay	and								
	attach a check payable to "Irving H. Picard, Esq.,									
	Trustee for Bernard L. Madoff Investment Securities LLC."									
	If you wish to make a payment, it must be enclosed									
	with this claim form.	\$								
d.	If balance is zero, insert "None."	NONE								
2. Cl	aim for securities as of December 11, 2008:									
PLEASE DO	NOT CLAIM ANY SECURITIES YOU HAVE IN	YOUR POSSESS	ION.							
		YES	NO							
ć	. The Broker owes me securities									
t	. I owe the Broker securities	-	<u> </u>							
(	. If yes to either, please list below:									
		Number o Face Amour	f Shares or nt of Bonds							
Date of Transaction	Name of Security	The Broker Owes Me (Long)	I Owe the Broker (Short)							
(trade date)	·	(== 37	,							
SEE STATE	MENT DATED NOVEMBER 30, 2008		AND THE RESIDENCE OF THE PERSON OF THE PERSO							
		AND THE RESIDENCE OF THE PARTY								
claim and s Please encl sale confirm any other d assistance	umentation can speed the review, allowand horten the time required to deliver your sease, if possible, copies of your last account nations and checks which relate to the securiocumentation, such as correspondence, which processing your claim. In particular, ion (such as cancelled checks, receipts from the court of your deposits of cash or securities were	ecurities and cas statement and pu ties or cash you o nich you believe you should pr n the Debtor, pro-	n to you. rchase or claim, and will be of ovide all of of wire							

back as you have documentation. You should also provide all documentation or

information regarding any withdrawals you have ever made or payments received from the Debtor.

Please explain any differences between the securities or cash claimed and the cash balance and securities positions on your last account statement. If, at any time, you complained in writing about the handling of your account to any person or entity or regulatory authority, and the complaint relates to the cash and/or securities that you are now seeking, please be sure to provide with your claim copies of the complaint and all related correspondence, as well as copies of any replies that you received.

PLEASE CHECK THE APPROPRIATE ANSWER FOR ITEMS 3 THROUGH 9.

NOTE: IF "YES" IS MARKED ON ANY ITEM, PROVIDE A DETAILED EXPLANATION ON A SIGNED ATTACHMENT. IF SUFFICIENT DETAILS ARE NOT PROVIDED, THIS CLAIM FORM WILL BE RETURNED FOR YOUR COMPLETION.

		<u>YES</u>	<u>NO</u>
3.	Has there been any change in your account since December 11, 2008? If so, please explain.	The second second decreased a second	<u> </u>
4.	Are you or were you a director, officer, partner, shareholder, lender to or capital contributor of the broker?		
5.	Are or were you a person who, directly or indirectly and through agreement or otherwise, exercised or had the power to exercise a controlling influence over the management or policies of the broker?		<u>√</u>
6.	Are you related to, or do you have any business venture with, any of the persons specified in "4" above, or any employee or other person associated in any way with the broker? If so, give name(s)		
7.	Is this claim being filed by or on behalf of a broker or dealer or a bank? If so, provide documentation with respect to each public customer on whose behalf you are claiming.		<b>√</b>
8.	Have you ever given any discretionary authority to any person to execute securities transactions with or through the broker on your behalf? Give names, addresses and phone numbers.		✓

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9.	Have you or any member of your family ever filed a claim under the Securities investor Protection Act of 1970? if		
	so, give name of that broker.	8	

Please list the full name and address of enyone assisting you in the preparation of this claim form: Carola Neville, Sonnenschein Nath & Rosenthal LLP, 1221 Avenue of the Americas, 25th Floor, New York, NY 10020.

If you cannot compute the amount of your claim, you may file an estimated claim. In that case, please indicate your claim is an estimated claim.

IT IS A VIOLATION OF FEDERAL LAW TO FILE A FRAUDULENT CLAIM. CONVICTION CAN RESULT IN A FINE OF NOT MORE THAN \$50,000 OR IMPRISONMENT FOR NOT MORE THAN FIVE YEARS OR BOTH.

THE FOREGOING CLAIM IS	S TRUE AND	ACCURATE TO	THE BEST	OF MY
INFORMATION AND BELIEF.	*	The David	1 McAc	- 2003 + South pac
Date	Slgnature	TVUST IK	ternatinel	as Trustre
Date	Signature	•		agentages constitution of the second
(If ownership of the account is	shared, all mus	st sign above. Giv	re each owner	's name,

address, phone number, and extent of ownership on a signed separate sheet. If other than a personal account, e.g., corporate, trustee, custodian, etc., also state your capacity and authority. Please supply the trust agreement or other proof of authority.)

This customer claim form must be completed and mailed promptly, together with supporting documentation, etc. to:

Irving H. Picard, Esq.,
Trustee for Bernard L. Madoff Investment Securities LLC
Claims Processing Center
2100 McKinney Ave., Suite 800
Dallas, TX 75201

<sup>\*</sup> This form includes and incorporates in full the attached Addendum. Customer reserves the right to amend the claim for any purpose.

### **CLAIM ADDENDUM**

Customer:

David R. Markin 2003 Trust

Capital Security Bank Ltd, Trustee

Address:

Account #:

1-C1324-3

### Document index:

1. Statement dated November 30, 2008

2. Investment Documents

a.	Statement dated August 31, 2003	\$7,237,016.31
b.	Statement dated August 31, 2003	\$4,000,000.00
c.	Statement dated October 31, 2003	\$3,287.40
d.	Statement dated May 31, 2006 Deposit confirmation dated May 24, 2006	\$3,000,000.00
Tran	sfer Documents	

3.

a.	Statement dated December 31, 2003	(\$3,500,000.00)
b.	Statement dated December 31, 2003	(\$500,000.00)
c.	Documentation Missing – 2005	(\$5,556,417.31)
d.	Regions and Morgan Keegan Trustee statement of account (transfer from Madoff Chase account)	(\$3,265,343.40)

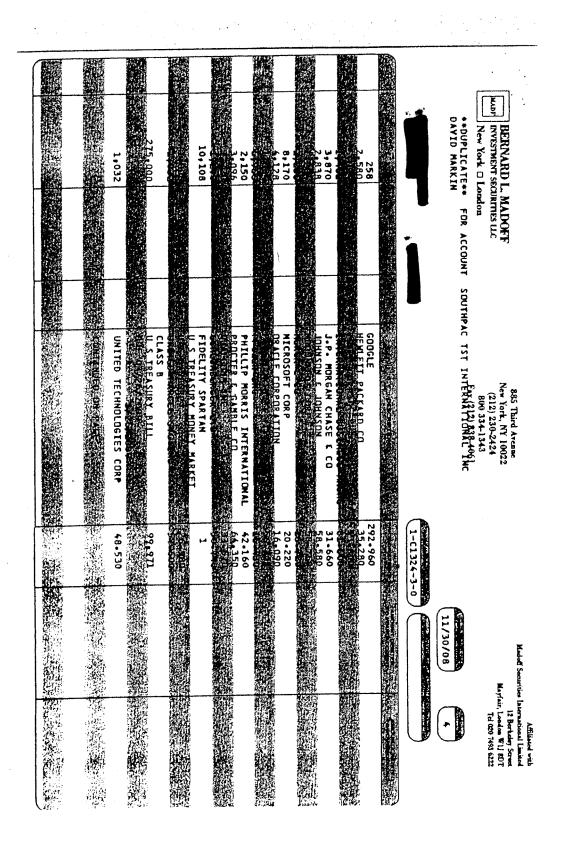
Total Investments: \$14,240,303.71 Total Transfers: \$12,821,760.71

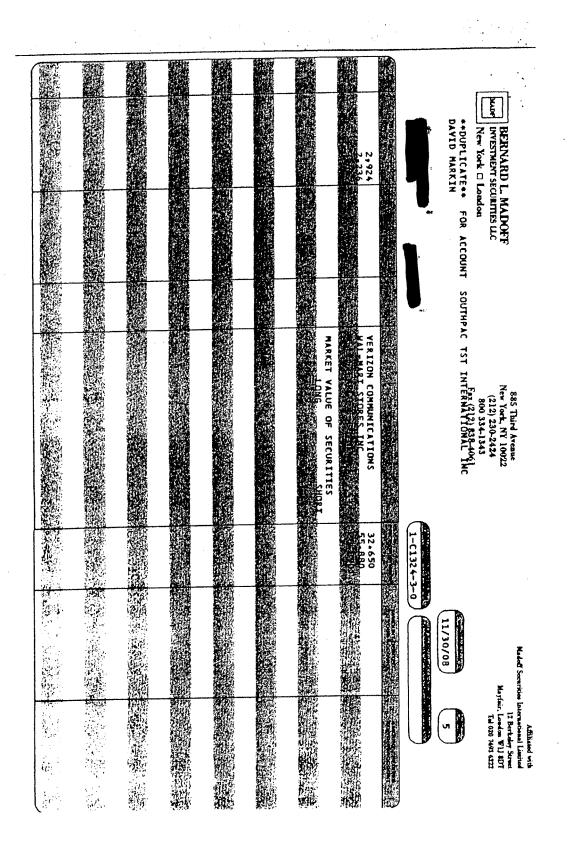
STATEMENT DATED NOVEMBER 30, 2008

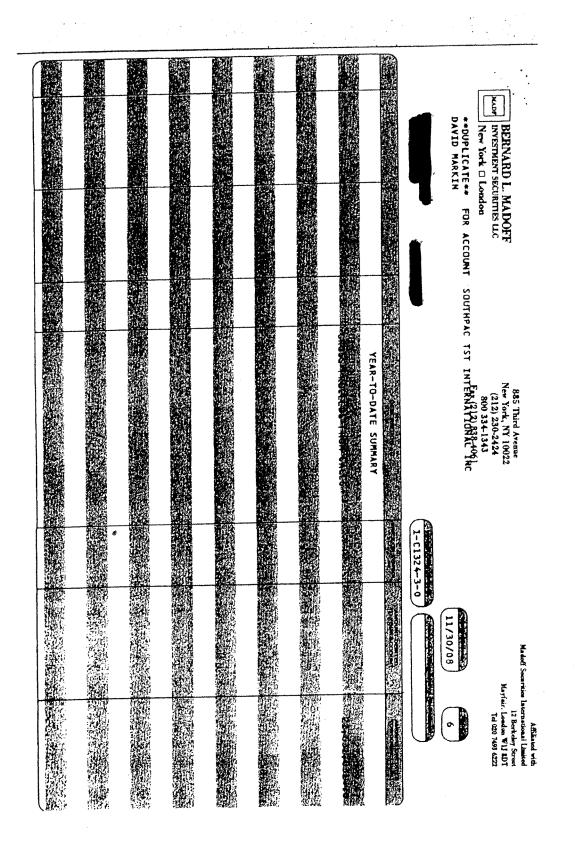
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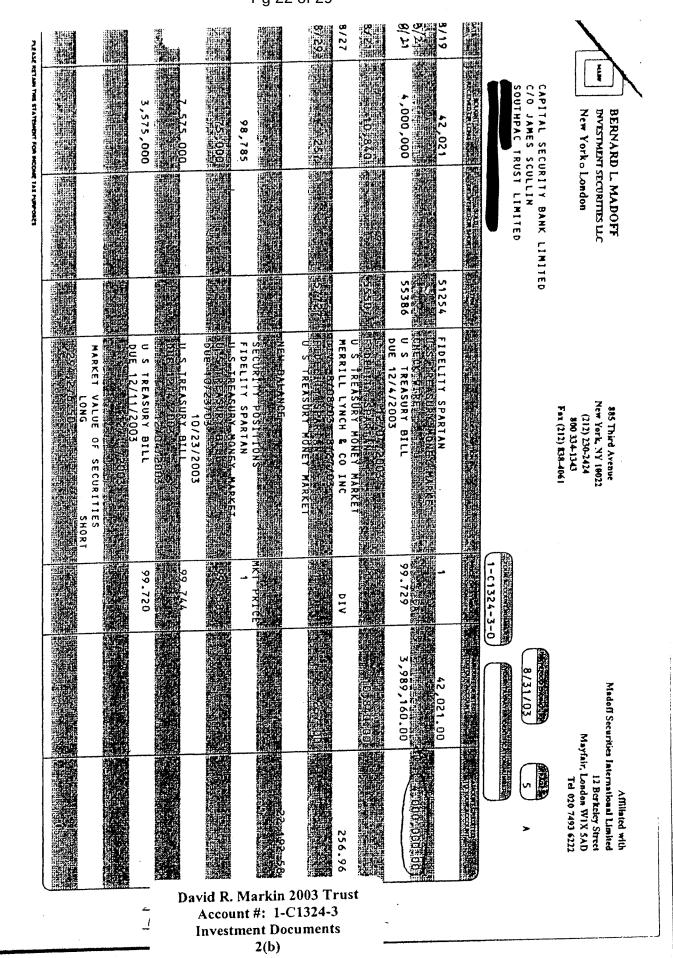


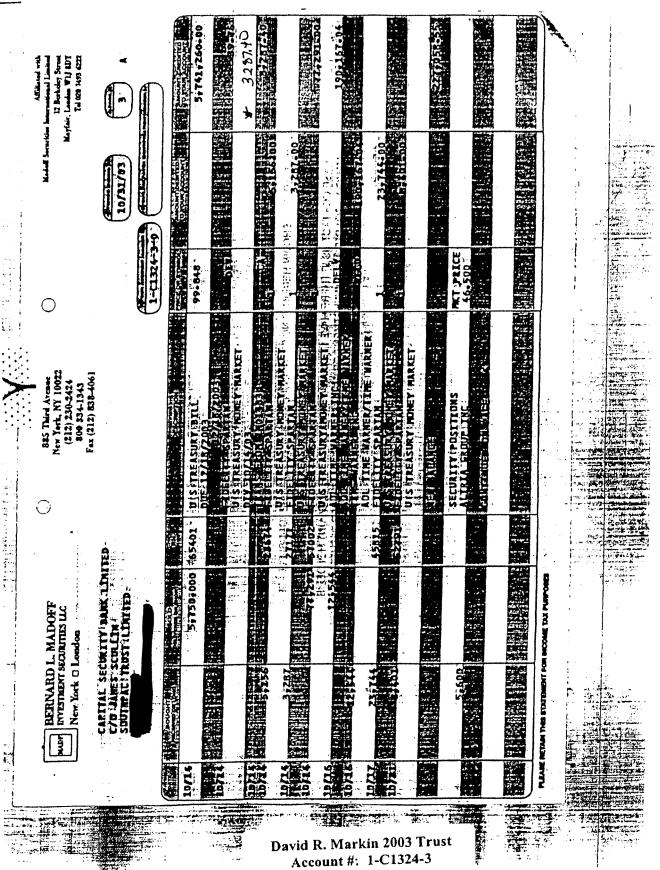


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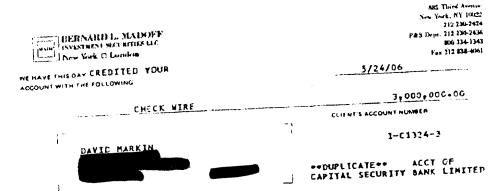




**Investment Documents** 

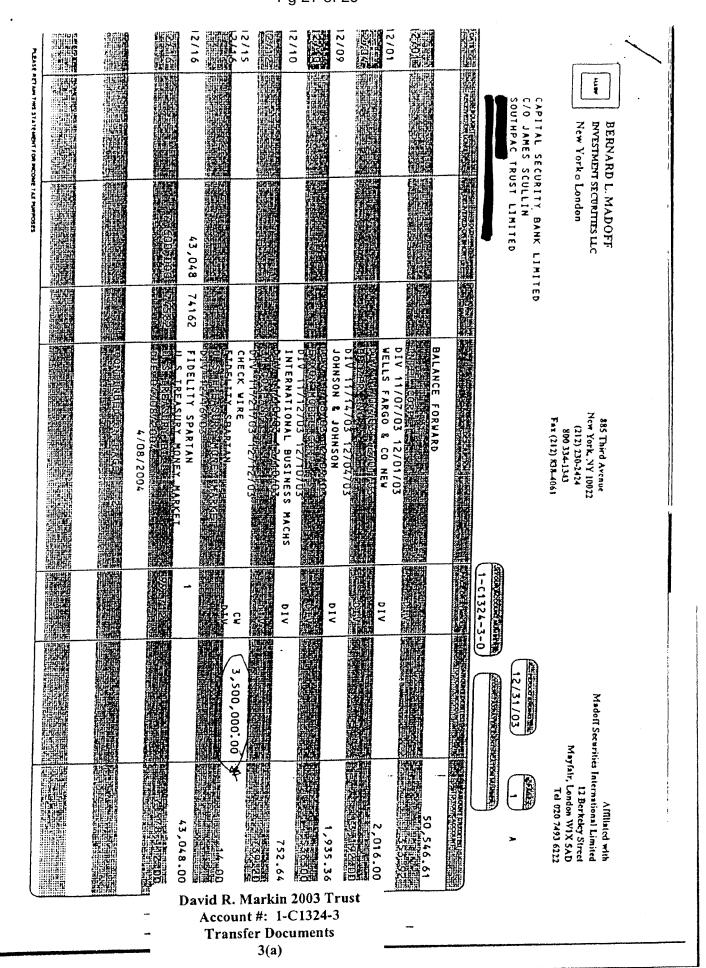
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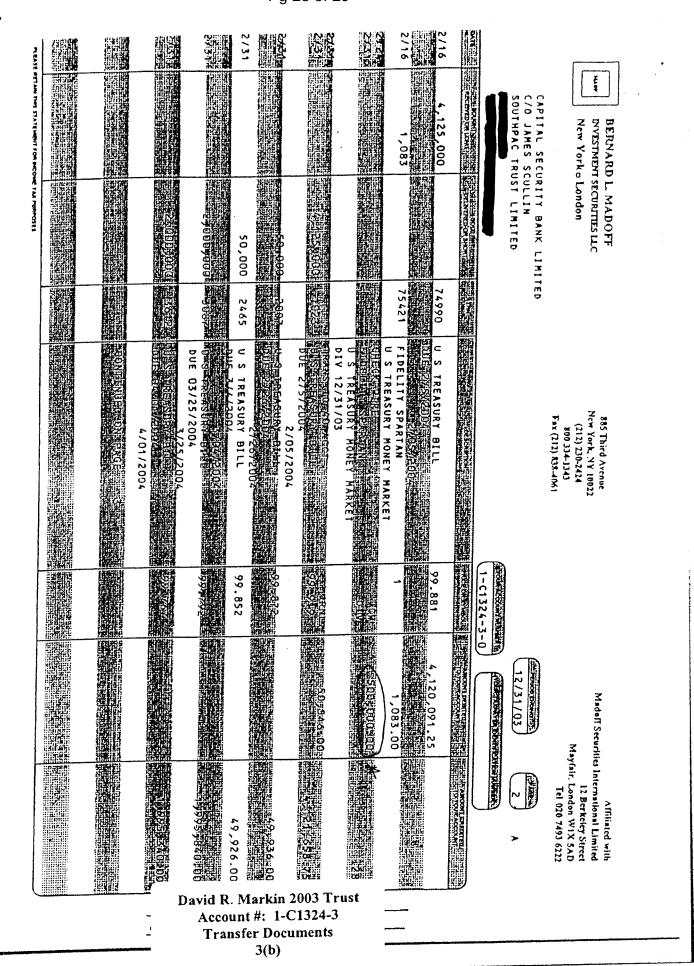
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	MARKET VALUE OF SECURITIES LDNG SHORT 3,009,341.00	U S TREASURY MONEY MARKET U S TREASURY BILL DUE 7/13/2006 7/13/2006	SECURITY POSITIONS FIDELITY SPARTAN	NEW BALANCE	FIDELITY SPARTAN US TREASURY MONEY MARKET	CHECK WIRE U S TREASURY BILL DUE 7/13/2006	BALANCE FORWARD	DESCRIPTION	. 885 Third Avenue New York, NY 10022 (212) 230-2424 800 334-1343 SOUTHPAC TST INTERNATIONAL INC
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	ung canal sheet above and sheet and			.74		3,000,000.00	-74	AMOUNT CREDITED TO YOUR ACCOUNT	Madoff Securities International Limited 12 Berkeley Street Mayfair, London W13 80T Tel 020 7493 6222
	ıt#: 1-	2003 Ti C1324-3 cument	3		assertation of the second			<u>a. a. a</u>	



THE DAVID R. MARKIN 2003 TRUST
Capital Security Bank Limited, Trustee
ACCOUNT

David R. Markin 2003 Trust Account #: 1-C1324-3 Investment Documents 2(d) TRANSFER DOCUMENTS





11/15/05

11/15/05

DIV .290 PER SH ON 4,000 SHS COLGATE PALMOLIVE CO

MONTHLY FEE TO 10/31/05

5,387.63

23,500,000.00-

1,160.00

DIV .280 PER SH ON 4,000 SHS PROCTER & GAMBLE CO

\*

11/18/05

11/18/05

MELLON UNITED NATIONAL BANK DISTRIBUTION TO FISHER & BENDECK, PAPER CLIENT REQUEST.

527,011.74-

972,988.26

MELLON UNITED NATIONAL BANK DISTRIBUTION TO FISHER & BENDECK, PA PER CLIENT REQUEST.

11/18/05 11/15/05

11/21/05

DIV .250 PER SH ON 2,000 SHS CATERPILLAR INC

DIV .440 PER SH ON 4,055 SHS CITIGROUP INC

1,784.20

21,860,872.19

21,860,872.19-

500.00

3,265,343.40

ADDITIONAL FUNDS RECEIVED FROM JP MORGAN (BERNARD L MADOFF

11/23/05

11/30/05

SALES (2) 11/01/05 TO 11/30/05 FEDERATED PRIME OBLIGATIONS FUND 10

STATEMENT OF PERIOD 11/01/05
76
ACCOUNT 5 TO 11/
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ACCOUNT NO.

RMKT AS CUSTODIAN FOR SOUTHPAC TRUST INTERNATIONAL, INC TRUSTEE OF DAVID R. MARKIN 2003 TRUST U/A/D 7/8/03. C/O JAMES SCULLIN

David R. Markin 2003 Tre	ust
Account #: 1-C1324-3	
<b>Transfer Documents</b>	
3(d)	

1001542 000007/000008 0010264

PRINCIPAL

11/01/05 BALANCES AT BEGINNING OF PERIOD

579,880.86

579,880.86

INCOME

1,332.00

DESCRIPTION

DATE

11/01/05

DIV TO 10/31/05 FEDERATED PRIME OBLIGATIONS FUND 10

68,008.68

4,006.79

1,120.00

11/14/05

DIV .152 PER SH ON 26,274 SHS COLONIAL BANCGROUP INC

11/01/05

DIV .370 PER SH ON 3,600 SHS NATIONAL CITY CORP

COST

21,807,844.63